

USSN: 09/483,766

### REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks.

The present invention relates to method of simultaneously cleansing and freshening the skin comprising applying a composition consisting essentially of from about 0.01% to about 2% by weight menthol and from about 0.1% to about 10% by weight menthyl lactate, the menthol/menthyl lactate ratio lying in the range from about 1/3 to about 1/10, to the skin. The composition is not irritating to sensitive parts of the human body.

Claims 35-37 are pending. They have now been rejected under 35 U.S.C. §103(a) as obvious over JP 10,231,238 to Koga. The Examiner states Koga teaches a cosmetic composition prepared by adding 0.001 – 10.0 weight percent of menthol and at least one of menthyl lactate, menthyl glycoside, menthyl hydroxybutyrate, methoxypropanediol and menthoxyfurane. The Examiner contends that the amounts of menthol and menthyl lactate recited in Koga generally fall within the amounts claimed by applicants, and that Koga speaks of a "refreshing feeling." The Examiner further argues that applicants' shower gel and foaming gel are cosmetics within Koga's sphere.

As previously explained, Koga achieves its "refreshing" results by utilizing refrigerants such as menthol or menthyl lactate. However, these are not necessarily used together and not necessarily in the ratios presently claimed. Furthermore, Koga requires, as acknowledged by the Examiner, that such refrigerants should be used in combination with ethanol and isopropyl alcohol.

Koga neither recognizes nor solves the problem addressed by applicants' invention, i.e., that menthol and menthyl lactate may be combined in order to produce refreshment without annoying or irritating sensitive skin. Koga's compositions, where they contain both menthol and menthyl lactate, all contain considerably more menthol than menthyl lactate. Nowhere does Koga teach or suggest the use of menthol and menthyl lactate in ratios wherein there is considerably less menthol than menthyl lactate (1:3 to 1:10 as opposed to 2:1 or 3:1, as set forth in Koga's Examples). Moreover, Koga's examples set forth concentrations of menthol that are higher than those contemplated by the compositions of applicants' invention (0.2% or 0.3% compared with

USSN: 09/483,766

0.08% to 0.12%) and menthyl lactate concentrations lower than those of applicants' invention (0.1% compared with 0.45% to 0.55%).

Koga does not teach or suggest a method of simultaneously cleaning and freshening the skin. Nor does it suggest doing this without irritation. At best, the compositions of Koga contain some of the same ingredients, in different amounts, doing some but certainly not all the same things. This does not amount to *prima facie* case of obviousness.

Accordingly, the rejection over Koga under Section 102(b) is without merit. Applicants request withdrawal of this rejection. Allowance of claims 35-37 is earnestly solicited.

Respectfully submitted,

By: /Sharon E. Hayner/  
Sharon E. Hayner  
Reg. No. 33,058  
Attorney for applicant

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-2242  
Dated: August 10, 2006